MEDICAL LABORATORY ADVISORY COMMITTEE

MINUTES

March 22, 2005

The Medical Laboratory Advisory Committee (MLAC) and Respiratory Advisory Committee of the State Board of Medical Examiners held a joint meeting via video conference at the Bureau of Licensure and Certification, 1550 East College Parkway, Suite 158, Carson City, Nevada. The meeting was called to order by Dr. Karen Carifo, Co-Chairman at 10:00 am.

Members stated their names for roll call. Vickie Estes stated that we had a quorum.

COMMITTEE MEMBERS PRESENT:
Karen F. Carifo, Ph.D., Co-Chairman
Susan Doberneck, M.D.
David Marmaduke, M.D.
Edwin Kingsley, M.D.
Sandra Kurtz, MT (ASCP)
Jill Brown, MT (ASCP)

COMMITTEE MEMBERS ABSENT:
Cynthia Mastick, Ph.D.
Bradford Lee, M.D.

(SBME) RESPIRATORY ADVISORY COMMITTEE:
Mike Garcia

OTHERS PRESENT:
Linda Anderson, Deputy Attorney General
Lisa Jones, Health Facilities Surveyor IV
Jennifer Dunaway, Health Facilities Surveyor IV
Vickie Estes, Health Facilities Surveyor III
Evelyn Sayre, Health Facilities Surveyor II
Dave Powning, Bureau of Licensure & Certification
Grace Clark, AAI
Tony Clark, State Board of Medical Examiners
Peggy Alby, UMC Respiratory Services
Dale Redfairn, Valley Hospital Respiratory Dept.
Arthur Little, Mountain View Hospital
Randy Insley, Community College of Southern Nevada Health Division
Thomas Lybrook, Sunrise Hospital & Medical Center
John Steinmetz, Washoe Medical Center

Dr. Carifo opened the meeting and asked everyone to introduce themselves. Jennifer Dunaway started the introductions.

Vickie Estes thanked everyone from both offices for taking time to attend the meeting.

Dr. Carifo dispensed with roll call due to sign in sheets and also dispensed with the approval of the minutes of the last meeting since this is a special meeting.

Dr. Carifo asked Mike Garcia to present an overview of the Presentation of Proposed Legislation for Regulatory Changes for Oversight of Respiratory Therapists by the State Board of Medical Examiners Practitioner of the Respiratory Advisory Committee.

Mike Garcia stated that he is one of the three therapists on the Respiratory Advisory Committee of the Board of Medical Examiners. The Respiratory Advisory Committee takes input from practitioners statewide under licensure law enacted in this state. We are now responsible to the Board of Medical Examiners. We return that input to the Board and ask for their advice and guidance. Our practitioners since we became licensed have come to our committee multiple times. The professional society in the state, the Nevada Association of Medicine Society for Respiratory Care approached our committee sometime ago and ask that we approach the Board of Medical Examiners to see if we could get legislation to eliminate the need for Respiratory Therapists to obtain a technologist or technician license in the state to draw arterial blood and analyze the samples.

- Respiratory Therapist's are trained in school to provide those procedures, not only puncture but analysis and then calibration and maintenance of the equipment.
- They are then further educated on site typically by their peers. There's a peer review for quality control, but tested for their national credentials and we provided in each packet the CAAHEP document admission on accreditation of Allied Health Education Programs.
- It outlines the standards and guidelines for accredited Respiratory Care Programs in this nation.
- Our licensure law requires that if a therapist is going to be licensed in Nevada that they have graduated from accredited programs. The second document is the entry level.

There are actually 2 levels of therapists; entry level and advanced practitioner. Once again our licensure requires that an RCP pass at least the entry level exam before they can apply for a license here. So we're saying we're trained, tested and since the year 2001 we have been under scrutiny of the Board of Medical Examiners for our competency and activities.

We felt that it was a duplicate effort on the part of the Bureau of Licensure and Certification to require Blood Gas Technologist's licenses of individual whose total practice includes that procedure. The Board of Medical Examiners agreed with us, and agreed to approach the legislature to get a bill draft to see what would have to be done to make changes in the existing law. We are looking for some way to possibly make that change through regulation versus opening up the law and revising Nevada Revised Statutes. If we could work this out between our two agencies it would be to everyone's benefit.

Our perspective as we understand it when the Bureau comes out to do a site survey of a blood gas laboratory, you verify that people drawing the blood and analyzing it have the appropriate license from your bureaus. We wouldn't expect to change the need for supervisory licenses or directors licenses, but what we would see as being the only difference from the Bureaus standpoint is when you do a site survey you would be verifying that people drawing blood if they are Respiratory Therapists have a Respiratory Care

Practitioner license through the Board of Medical Examiners. Otherwise we can't imagine what difference your process would take. That's why we're here today to see if we need educated at that level.

Vickie Estes: The Bureau of Licensure and Certification has governed all testing since about 1974, regardless of the individuals that perform that test. They are all trained, qualified, many are physicians. It has always been legal opinion that the more stringent law applies, not that it might not be considered the practice of medicine; there's been some discussion about nursing scope of practice in the past. The original proposal from Mike was to add Respiratory Therapist's to Nevada Revised Statute 652.217; which is a statute that allows nurses to perform waived testing only in licensed medical facilities. That particular statute is restricted to waived tests, not the blood gas test and there's currently no waived blood gas analysis available. Those tests are categorized by CDC and FDA. It's a very serious test with dire consequences. There is another option, RCP could be added to Nevada Revised Statute 652.210, for the collection of the specimen. Other professionals are included in NRS 652.210. I thought the Respiratory Therapist would have been included when the State Board of Medical Examiners began licensing them. I didn't see that happen. I think that would be a very good first step for this.

Mike Garcia: That essentially addresses the blood gas technician license?

Vickie: No, it really wouldn't. It would allow collection of the specimen, by anybody that was a Respiratory Therapist licensed by the State Board of Medical Examiners. Your legal council may have wording to add; you mentioned entry level versus advanced practitioner. There may be wording in there to include both of those. As far as the assistants I didn't see any provision, since they're not licensed by the State Board of Medical Examiners to continue to collect specimens at all. In the North there are a lot of hospital laboratories where the Respiratory Therapist collect the specimen and then give them to the laboratory for analysis. In the South you have representation there from the large hospitals and a lot of them do have independent blood gas laboratories with their own directors and supervisors. In the North I'm not sure that's the case; Vickie asked John Steinmetz about collection of the specimen versus the performance of the test at Washoe?

John Steinmetz believed that Washoe and St. Mary's Respiratory Therapists collect the specimens and the blood gas testing is all done by the lab.

Vickie believed Carson Tahoe Hospital also performs the blood gas testing in the laboratory. Most of the Respiratory Therapists in the North would be covered for the collection of the specimens with the addition to Nevada Revised Statute 652.210.

Tony Clark addressed Vickie: If I understand you then, what you're saying is that we need to go forward and get a statutory change as opposed to trying to work with you on a regulatory change?

Vickie: That would be one possibility. There are probably lots of other choices here and the committee can discuss other options.

Dr. Carifo: Licensure for a Respiratory Care Practitioner, is that a state license? Mike Garcia responded back, yes. Dr. Carifo asked how frequently does that have to be renewed.

Mike Garcia responded back that is has to be renewed every two years. Dr. Carifo asked Mike Garcia if it has the similar requirements as far as continuing education. Mike Garcia said significantly different; twenty credits every 2 years (which is the same as that now currently required for certification of Blood Gas Technologists and Technicians). In order to get that license a third party has to verify high school graduation, graduation from an accredited respiratory care program and verification of national credentials versus the standards of blood gas license, technologist license, which require copies sent.

Dr. Carifo asked Mike Garcia: Does everyone who has a Respiratory Care license, would they be qualified under the NAC 652.443 and also NAC 652.447 or 443? Where does blood gas technician fits in? There would be no such thing as a blood gas technician?

Mike Garcia: That is correct; under our licensure.

Vickie: What happens to the CRTT's?

Mike Garcia: The CRTT's are Respiratory Care Practitioners. They are licensed the same as RRT's in this state. That credential over the next five years will disappear, and there will only be registered therapists graduating from accredited programs in America.

Dr. Insley from the Community college clarified that CRTT's no longer exist and haven't for several years. They have reason to believe that in another 5 years the certified Respiratory Therapist won't exist any more as a new credential. Only new credentials will be given to registered therapists. Whether that will happen or not, we can't guarantee. There will be residual folks who did not acquire as a registered respiratory therapist credential who will then still be certified.

Vickie asked Dr. Insley; how will that work? If you're not going to license the CRTT's any more? Will they be grandfathered in? Mike Garcia stated that has already occurred. They are certified respiratory therapy technicians. There isn't a technician anymore. There are only therapists. One is the certified therapist, and one is the registered therapist. Both are RCP's. The distinction is that as of 2 years ago and hence all of our certified respiratory care entry level is required to have associate degrees.

Dr. Carifo asked Mike Garcia: Do technologists carry dual registration? They carry 2 licenses?

Mike Garcia: That is the point. They get to carry the Respiratory Care Practitioner license and they have to carry a Blood Gas Technologist license, in order to draw arterial blood and analyze the sample. That's our point; carrying 2 licenses for something that is well covered under our scope of practice as Respiratory Care Practitioners.

Linda Anderson: The statutory change is necessary just for the manipulation. It should be done regardless. That doesn't affect technologists or technicians specifically. The other piece is you have very similar requirements for these 2 licensing agencies that are identical. It's about who is going to continue to monitor them. Would it be the Health Division doing it or just the board of Medical Examiners? Right now they are looked at by both entities. The way to do that is, one way would be a statutory change, the other a regulatory change.

Mike Garcia: The requirements are not identical, original transcripts versus copies of transcripts.

Dr. Carifo asked Mike Garcia if he is saying that it's a financial hardship for someone to carry dual licensing, or it's a regulatory problem? You have difficulty overseeing them?

Mike Garcia: There isn't any problem overseeing them. Investigation is launched by the Board of Medical Examiners anytime there is a complaint to the Board regarding a practitioner regardless of the procedure. If an employer had a problem with the performance of a Respiratory Care Practitioner they would call the Board of Medical Examiners. If there were concerns involving blood gases it would go to the Board of Medical Examiners regardless.

Dr. Carifo asked Mike Garcia who else performs respiratory care besides a practitioner? In some instances does a Pulmonologist work with a laboratory person and perform essentially the same functions as you are describing?

Mike Garcia: His scope of practice is to overlap there. If someone presents themselves to Sunrise Hospital and says I want to take care of patients on ventilators and I want to do pulmonary functions and I want to blood gases; then they had better be a licensed Respiratory Care Practitioner in the State of Nevada, or a physician.

Dr. Carifo: Is this scenario possible; a physician who specializes in pulmonary care could they do blood gas analysis on a patient with the assistance of a nurse?

Vickie: No.

Dr. Marmaduke: Only if they come under the Point of Care; for instance at Sunrise Hospital we have physicians who do testing presently in the emergency department they do blood testing, but if that comes under the CLIA license for Point of Care. We have oversight of that instrument to be sure it's functioning properly. We have oversight of how the tests are performed, and we have oversight over how the results are reported.

Mike Garcia: We wouldn't expect that to change. Respiratory Therapists do not own the equipment, do not run the lab; they're simply drawing the blood and analyzing it. The Bureau would continue having the oversight of the equipment.

In some situations though maybe the lab does not own the equipment, especially if it's independent. Independent respiratory care programs do own their own equipment and there's an allowance there.

Mike Garcia: We're not licensed to run laboratories. We get a technologist license that allows us to draw blood and analyze it. The lab itself is independently licensed by this Bureau. We're not asking for a change there, or in the supervisory license requirements or in directness of requirements.

Dr. Kingsley: So your proposal would not change any proficiency requirements or testing blood gases?

Mike Garcia: No. Of the 550 blood gas technologists license we have in this state, I guess 500 of them are probably held by Respiratory Care Practitioners. It wouldn't change any of the standards for the laboratory. We wouldn't want to change the standards for the laboratory.

Peggy Alby: And we're not asking for change in the technician or the systems efficiency.

Arthur Little: He is the Lab Manager of the Mountain View Pulmonary Lab which performs blood gases, has an independent CLIA license, and CAP number separate from the laboratory. We do all the CAP proficiencies necessary. We have an independent license through the Bureau. That would all stay exactly the same. All the requirements to run that lab would stay the same, so I would need the General Supervisor and Lab Director to meet those things. The only difference would be I have Respiratory Therapists who are out running blood gases. They are currently carrying Respiratory license and Technologist license. They are carrying the two licenses. With the change, they wouldn't carry the technologist license, but they would still indeed be under all the other lab rules that my lab is currently under. They would still have to have a supervisor. They would still have to meet all the proficiency that we have to meet now. Not all the labs in the state are CAP certified, but CLIA takes over that rule of thumb. They are all licensed by the Bureau.

Vickie: A lot of the blood gas labs have gone together with the regular laboratories, under one Director, one CLIA license, and one state license. There really are very few laboratories left with just blood gas licenses for the respiratory care people.

Mike Garcia: Good point. Obviously our request would change none of that.

Vickie: No, but the part that I see that might come into play later on is the Respiratory Therapist would be coming in to the laboratory that would be running the blood gases right next to the laboratory individuals who currently have to be licensed also. They're not duplicate licenses. They're not licensed by any other body, but by the same token, hospitals that have nurses doing a lot of the respiratory functions, that if the nurses were going to perform blood gases they would have a laboratory personnel certificate as well.

Mike Garcia: He does not believe that nurses are trained or tested on those procedures in there core curriculum for becoming a nurse. If we called the State Board of Nursing right now, I suspect they would say no. They would require additional training and they would clearly require a license under your Bureau.

Vickie: The laboratory technologists have bachelor's degrees and national examinations, and all that, so we're not really questioning the training, or the history of the training, or the correspondence schools or whatever the 2 year programs that you have already established. That never has really been an issue.

John Steinmetz: What's the issue?

Vickie: The issue is before working in a laboratory at any technical level a person must be licensed by the Bureau. The Bureau has governed all testing personnel for the last 30 years, regardless of the individual's professional status.

Tony Clark: You don't require MD's to have a license.

Vickie: They do, they have to register with the Health Division to perform testing. That's a statutory requirement.

Dr. Carifo: These regulations are also based on national regulations. We have to be very careful when we start manipulating these that we are not doing something that's going to change the continuity of what the intention was.

John Steinmetz: When you say on a national level, I don't believe that there are many other states that require Respiratory Therapists to have a Respiratory Practitioner license as well as a laboratory technologist license.

Mike Garcia: The American Association of Respiratory Care was unable to find another state where licensed Respiratory Care Practitioners were required to get a blood gas license through the state. That's not the whole heart, frankly our requirements to come in to this state to be a practitioner are much higher than many other states, and there's good reason for that. The fact is that we could not find another state where licensed Respiratory Care Practitioners had to pay for a second license to do a procedure that they're performing.

Dr. Carifo: All states are required under blood gas testing to follow certain regulatory guidelines. Not all states have licensure programs. Many don't have licensure programs for technologists, but they still have to follow the Federal Regulations regarding this testing. That's not what we're asking you to compare to. This will always fall under CLIA regulations regardless of how ……

Mike Garcia: We understand CLIA well.

Linda Anderson: So we understand the basis of your request has to do with financial hardship rather than anything else.

Mike Garcia: That's exactly right.

Vickie clarified how much the certificates cost: They cost $75 initially for a 2 year cycle, and $50 to renew for a 2 year cycle, essentially $25 a year after the first cycle.

Mike Garcia: That's correct, and Respiratory Care Practitioners are paying $300 at their initial licensure and then $200 every 2 years thereafter, on top of that. I guess the only difference would be, as I understand it, the Bureau is funded through the General Fund or ….

Vickie: No we're not, not at all.

Mike Garcia: That was a question for him because so is the Board of Medical Examiners. All of their activities are funded by Physicians, Physicians Assistants, and Respiratory Care Practitioner licenses. Our practitioners feel that they have paid their license fee and that now they're being asked to pay the second fee of a blood gas license when it's covered under their scope of practice.

Vickie: I don't see it that way. We've had blood gas technicians, technologists, assistants and directors in place for 30 years and now we have the State Board of Medical Examiners license? Is that true?

Mike Garcia: That is a fact. Yes, the times have changed. That's what brings us to you today. It's time to change the need for that license for these practitioners.

Dr. Carifo: Rather than looking at regulatory change, and maybe Linda can answer this, is there some way that we can combine the fees, like the waiver of certain fees, like the $75 initial, so that combined license can be awarded in a way that's not so financially daunting to the technologist?

Linda Anderson: What the unique situation here is we would still license the entire lab. We just have certain individuals within the lab that would not fall under our jurisdiction, and that's the unique question that you're posing to all of us. That makes the Medical Laboratory Advisory Committee nervous. Continuing to do the work of regulatory oversight without the fees may not sound good to the Health Division either. I know those fees are still intentionally what we do in terms of surveys, that's why I was asking about giving the committee a little more comfort level about how those issues would be dealt with by the Board of Medical Examiners, versus the Health Division, because certainly if they're not getting any fees they're not going to want to investigate those kind of claims or those types of issues.

Mike Garcia: The issue would be, if you have an issue with the laboratory then the Bureau would be looking at that issue, if there's an issue with the Respiratory Care Practitioner that would go to the Board of Medical Examiners.

Dr. Carifo: The kind of overlap that is causing us some headache, an issue being investigated in the lab isn't soley to only one person. Initially you'll have falsification of testing or something that you can't really specify, but the Health Division is actually doing that work without that additional revenue coming in, as small as we may see it and I'm not sure what that would mean, with the Board of Medical Examiners people need to understand that with those types of lab issues and realize that if it involves a Respiratory Therapist then maybe the lab people could speak to this, how that would be done if we don't have that money coming in to pay for those services.

Dr. Carifo: That as a Medical Laboratory Advisory Committee we've always been very sensitive to it. One is the understanding that anything that we do affects the entire state. It would affect everyone across the board in the state, and we want to be careful that we don't do something that is a hardship on parts of this state which are not as sophisticated as our south sister corner. The other thing is precedence setting, what we do for one group of medical examiners or one group of special interest group, sets a precedence when we can speak more to them the next time somebody approaches. These are very real concerns to us.

Dr. Kingsley: He is a reviewer for the Board of Medical Examiners and was not sure it would be a big difficulty for us; when we review cases, complaints that come before the Board if it's overlapped between the practitioner behavior and laboratory issues because we get that in patient care, because there is a lot of overlap there. Patient care involves laboratory issues. I'm not sure that's an insurmountable obstacle. My question is; how do

the other states do that, how do they address in to other states, are the Respiratory Care Practitioners under the jurisdiction of the BME's or are they under…Mike Garcia: Varies…Dr Kingsley continues: How do they do it. We could learn from how other states do it.

Randy Insley: My understanding is that we are unique. I believe of the 50 states now all 50 states have respiratory care licensure.

Dr. Kingsley suggested: That we investigate how other states do this and to address fears and concerns. This is something you guys have been doing for 30 years or whatever. It makes sense to me that the financial issue is an issue. I'm not sure that it's a real strong issue at $25 a year, but it does make sense to me to streamline it and not require two whole licenses; that seems a little crazy. That's my perspective, but it would seem to be not an insurmountable problem if we could learn from other states how they've done it.

Vickie: Maybe the laboratory directors might want to think about this as well because the laboratory directors themselves are being held responsible for all the blood gas analysis by the Respiratory Care Practitioners. It's very heavy enforcement on the laboratory and the laboratory director if there should be any error or problem like that; there's no licensing in between, no laboratory interface there. They would just hold the directors accountable for each of the Respiratory Care Practioners performing the blood gas testing in their labs. I know Nevada's a fairly small state and so far we haven't had much trouble getting directors, but I think we might want to think about that too. Are they going to be willing to accept the responsibility for the testing that would be performed by the Respiratory Care Practitioners?

Mike Garcia: He's not sure what Vickie means, but he accepts the responsibility of his employees already. Vickie: Are you the director. Mike Garcia: You are talking medical director; the medical director themselves. Vickie: The person who is a physician licensed as the laboratory director. We have a few on this committee.

Dr. Doberneck: If you are responsible for these people you are much more comfortable with them having the same sort of licensure that all your other laboratory personnel have.

John Steinmetz: But doesn't this license issue have to do with proficiency, the ability to do a quality test? That's part of our training. I don't see where the laboratory license, the technician license that I hold says that I'm doing it any better than my RCP license. I don't understand this. It doesn't make sense when basically you're having two licenses that says you're proficient to do a certain task. I have to agree with Dr. Kingsley that it seems silly to have two separate licenses dealing with the same issue. Maybe I may look at this to simple.

Randy Insley: The statement that the training and education that most of these folks have includes 6 credits of phlebotomy training with 120 hours. All of my students require being national phlebotomist's grad. We do IV insertion training. I practiced when we did arterial line insertion and all of our Respiratory Therapists did pulmonary artery line insertion, so we had to be monitored, so the idea of a redundant license to perform an arterial stick when a lot of folks like myself have done thousands and thousands of them under licensure law. The idea of requiring a redundant license probably is not necessary.

Vickie: That's a good point. That's why she proposed the addition to NRS 652.210 for the collection of the specimen; which does not include the analysis for blood gas testing.

Mike Garcia: That's fine, but our question would be what is the difference between drawing and analyzing?

Dr. Carifo: You have to be careful when you're talking to lab people when you are asking that question.

Vickie: I would hope you know the answer to that question.

Mike Garcia: He is referring to how it relates to the Respiratory Care Practitioner.

Vickie: As is relates to anybody. There's a lot of difference. There are critical values, laboratory protocol, quality assurance, a whole list of other issues that go beyond just a collection. Mike Garcia: Our plan would be none of that would change.

Vickie: That's the part we don't know because we've been overseeing it for thirty years and we're not really sure where the State Board of Examiners jurisdiction comes in.

John Steinmetz: That would still fall under the supervisor laboratory license as the instruments, quality assurance, quality control, all of that part; correct; because that's not as I read under technologist it would answer to a Director and the General Supervisor.

Linda Anderson: Correct me, some states just license directors, respiratory therapists and personnel performing tests. Nevada has taken the option to develop regulations to certify or license everybody within the lab system. I think it's a subject to debate on which is the process we prefer. The issue though becomes without the revenue source that we get from our licenses are we still being asked to look at all those issues without that $25 a year. Obviously part of our fees are built on charging everyone within the lab system and that's where I think we're struggling with Board of Medical Examiners, I think in the past the Board of Medical Examiners has looked to the Bureau of Licensure and Certification for lab issues.

Vickie: Constantly. They have continuously, but that would be one of the duties that we expect when we license individuals that perform testing.

Dr. Carifo: I think that we can only consider the discussion here as preliminary, because what sounds like a simple verbal change has a lot of impact and when this happens we're responsible to look at the impact statements; what's going to be involved. As Linda mentioned the financial impact; as Vickie mentioned the regulatory impact; the number of people that are involved; the facilities that are involved. No one is opposed to making change but we need more information before we do so. We need an analysis of impact statements before we go ahead and do this.

Linda Anderson: The regulation process would involve that sort of workshops and getting everybody to participate. It really is the regulation that requires this certification of the lab personnel. It's not a statute, so it is an area that could be done through the regulation process. Financial is one. If we don't have a blood gas technologist to cite or take action

against their certificate on, the next time we need to take any enforcement action, it would be the director

David Marmaduke: Could I ask you a specific question? I am the Director of Point of Care Testing at Sunrise Hospital and Director of the Laboratory. So we have Respiratory Therapists at Sunrise Hospital, we do blood gases. How would this change what you're proposing; in terms of performing the test, drawing the specimen, before the result?

Tom Lybrook: At Sunrise Hospital Respiratory Department, we do have a Laboratory Director that does oversee all of the blood gas happenings, equipment, the personnel, everything else, there might be a little bit of overlap in some of the Medicare testing. For the most part the director of the lab does oversee all of the therapists and he is licensed by the state to do that.

A question was raised; so what change would it make for your Laboratory Director? Tom Lybrook continued; it really would not make any change whatsoever.

Linda Anderson: But it would be based on employment contractor agreements rather than our regulations.

Mike Garcia: We are still CAP certified. We are still governed by all the regulations that CAP puts out. We still do all of the testing that's required. There are a few people in the lab that don't have blood gas licenses that would still be required to have licenses by the laboratory. There are technicians in the blood gas lab that are not Respiratory Car Practitioners, who are licensed by the State of Nevada, but everything that does happen the Medical Director of the lab does oversee all of those individuals.

Peggy Alby: Our lab director oversees our personnel, laboratory technicians and Respiratory Therapists. Mike Garcia: What about Valley Hospital?

Dale Redfairn: Same with them.

Mike Garcia: We just verified that each of the facilities represented down here today by the respiratory managers who have seen Valley, Mountain View and Sunrise have Pulmonary Medical Directors oversee the activities of the blood gas laboratories that we're talking about. My question would be; when a site survey is performed; what interface does the Bureau have with the practitioners now on a typical site survey; not checking the quality assurance; not looking at how many standard deviations from the meeting, but what do they do with the technologist during the site survey, to assess competency? Vickie: Absolutely.

Evelyn Sayre: During a survey for the respiratory therapy department, a surveyor would look in depth as to the qualifications that person would need; what is defined under the two regulatory requirements that are being targeted today; whether they've met the educational background; continuing education requirements; the training; licensure aspect. As long as I'm speaking, I'd like to remind everyone and we certainly appreciate the careful approach that we are undertaking today, because I want to connect with Dr. Carifo's concern about setting a precedence; as long as we're looking at this closely I would like to remind everyone another regulation that could be impacted and that's the NAC 652.454 wherein we require interpretation of Point of Care Analyst to follow its professionals, who are indeed

professional qualifications or ability to perform moderate complexity testing. The following are required to be certified. In view of the fact that we are dealing with moderate complexity testing we have to remember the complexity of the tests that we are dealing with. Registered nurse is required to be certified; Advanced Practitioner; Licensed Practical Nurse; Physicians Assistant, Registered Pharmacists; all those are required to be certified as Point of Care Test Analysts because of the fact that we're dealing moderate complexity test, and Practitioner Respiratory Care is one of them and because you already certified as a Blood Gas Technologist you are not looking for your additional certification to the Point of Care Testing Analyst or both instrument that we're dealing with is this even a Point of Care Testing instrument. If you get rid of two regulations you would still be covered under this requirement. I think it's a blessing in disguise and I don't think everybody noticed that you have that certification as a Blood Gas Technologist and Technician because otherwise you would be required to be a Point of Care Testing Analyst. I'm talking about precedence.

Mike Garcia: Speaking of the educational backgrounds of these individuals as I don't think any of them would be able to present the same basic qualifications as Respiratory Care Practitioners to do in those types of procedures. Vickie: Oh yes. Advanced Practitioners of Nursing have Masters Degree. Mike Garcia: Degrees yes, but not necessarily specific training in our arterial blood gas puncture, analysis, quality control, the equipment, etc. Vickie added that pretty much every single laboratory person also has that. Jennifer: and RN's are trained to those kinds of punctures. Mike Garcia: No, it's not in their curriculum typically. The Board of Nursing would tell you they would require additional training before they would consider that an appropriate part of their practice; as with Advance Practitioners of Nursing.

Randy Insley: The folks you listed under the Point of Care provision; PA's, I think you suggested and what I heard you say was that we have the benefit of being certified, how similar are those two provisions; we're trying to reduce the redundant licensure and you're suggesting that if we were to do that then we might have to acquire a care provision. Is that what I heard you say?

Evelyn Sayre: Actually a Practitioner of Respiratory Care is required under NAC 652.454 to be certified.

Mike Garcia: But I think Vickie told me in our last conference that there are about 25; that would affect about 25 practitioners in the state. It's the technologist license that is the bulk of the Respiratory Care Practitioners.

Dr. Carifo: Asked how many technologists are there? Mike Garcia responds: 1000. Vickie: All of the Respiratory Care Practitioners are not performing blood gases nor are they collecting specimens, there are probably about 250 of them that aren't really affiliated with an agency at all. Mike Garcia: Actually more now. Vickie: Back I think there are 658, which does not include the supervisors. Mike Garcia: 658 technologists? Vickie: and technicians. Mike Garcia: There are roughly 1000 therapists in the state. Vickie: But they aren't all doing the blood gas testing and they aren't all collecting the specimens. Mike Garcia agreed. Vickie: Unless you think they are going to after they don't need another license, I'm not sure what your point was, but the other thing I was going to point out to you was you have Mountain View, Sunrise, UMC, Valley, and we have Washoe up here which does not perform blood gases, right; Vickie asked John Steinmetz; John responded; we have

blood gas draws we do not test. Vickie: They collect only and then I wanted to remind you that there are probably about 50 other hospitals in this state, that you are not really considering, so you guys might be the big 4 or 5 in Las Vegas, but there are a lot of other hospitals to consider.

Jennifer introduced Diane Allen who is our Chief Nurse with the Bureau of Licensure and Certification.

Diane Allen: Reiterating that Mike Garcia had said that Respiratory Therapists receive more training in blood gas arterial sticks than two year RN's and that's totally accurate, because you're more focused in on the respiratory center. However, two year RN's with training by their hospitals and in certain areas like the rural hospitals and our frontier hospitals can do arterial blood draws, they just have to demonstrate competency. Jennifer: and a four year RN would be able to do it as well. Diane: Definitely. John Steinmetz: In their training? Diane: They do not receive it in their formal training, but it's like many other things that the RN doesn't receive in their formal training; but it would be a four hour class and they just demonstrate competency.

John Steinmetz: We understand that; the point being is that the training that they receive in school; respiratory therapy; respiratory therapists are much more trained not only in the acquisition of the samples, but in the whole process, analyzing, the quality control on the instruments, at least the instruments they have available in their training program; so they understand those concepts of the draw, the analysis, the quality control.

Diane: She thinks that John is probably absolutely correct, she's not familiar with the academic program by a Respiratory Therapist, and I know that is about all they really do is blood draws where the nurses have all kinds of skills that they learn; IV's, tubes and all these things; but when we look at hospital regulations we look at hospital regulations statewide and we make sure that all hospitals can give the care that they need. When you're out in Hawthorne and you have an auto accident and if there's no Respiratory Therapist there, certainly the RN in the ER can do that draw; now when you're in your big hospitals when they do many draws for blood gases on the critically ill they put an art line in; and sure the RN can certainly take blood from that art line. That's a simple procedure for them.

John Steinmetz: We've been on this for an hour; I guess what I would like to find out; where are we going; we're beating the bush and going around in circles here; I'm still not quite sure where the Health Department stands on this and how we should move forward. I think that; I hope that I'm not speaking out of place for Mr. Clark here; is that I think that all of us would like to work together to resolve this issue, but there's no plan here on how to do that.

Mike Garcia: I think John that the Advisory Committee to the Health Department has concerns that the impact on the general public hasn't been looked at extensively enough to start talking about making significant changes in these regulations and I can certainly appreciate that; that's their responsibility. It's our contention that the Board of Medical Examiners shares that same responsibility to protect the public. It's our contention that nothing the Bureau of Certification & Licensing is doing right now to manage laboratories would change, and frankly it's our experience if I can speak for the group; their function does very little to ensure the competency and quality of those technologists in the first place. The requirements for our license are significantly in excess of requirements that you have

gone by now for thirty years. You're really looking at an upgrade in surveillance as far as we're concerned in protection for the public and I believe the sticking point is the reduction of funds to the Board. I can appreciate that if that's a problem.

Linda Anderson: Let's maybe address the on site supervision that occurs through the Board of Medical Examiners. I know you are checking originals within the licensure process, but do you have any committee who's out there checking on the personnel working in the labs?

Mike: Laboratory supervisors and directors, who are, in many cases Respiratory Care Practitioners. Every Respiratory Care Practitioner carries the responsibility in this state with their licensure to report a problem; whether there has been a sentinel event, hideous problems that came to light by the employer or not. If they do not and it is later determined by the BME that what was going on and should have said something about it, then they have to face the Board of Medical Examiners.

Linda Anderson: I think that the one advantage to the Health Division is that they are on site doing surveys; whereas the Board of Medical Examiners doesn't, and I think one of the concerns is that they would be on site reviewing people that didn't have a license.

Mike Garcia: Spoke my question still stands; what do you do to review them now?

Lisa Jones: When we go into a lab they go in and look at everybody to make sure everybody's qualified. What you're suggesting is that we would just go to the lab director and say is everybody qualified. We wouldn't be looking for licensure and competency documentation.

Mike Garcia: Basically to determine qualification. Surveyors look to see that those individuals have their blood gas technologist license? We do a much more formal review. We do formal criminal background checks. We have third party verification for those credentials. This is an improvement over what you're currently doing which is asking them to send a copy of their credentials; since respiratory licensure in this state that can no longer occur. Now the school they graduated from has to send a letter to the BME. The agency that tested them and there's only one in this country, the National Board of Respiratory Care has to send a formal letter to the BME and their high school, and their college has to send transcripts then FBI criminal background checks are done on those individuals before they get a license to be a Respiratory Care Practitioner in this state. That is significantly more extensive than what you really require.

Vickie: She wants to clarify that for the nurses that perform testing in medical facilities it's limited to waived tests. Blood gases are not considered a waived test. Mike Garcia: That's consistent with their training and educational backgrounds. Vickie: Let me intervene one second here; we just opened a brand new hospital, a surgical hospital, and practically every single respiratory function is going to be provided by nursing.

Dr. Carifo: See the discussion keeps wavering between qualifications, which no one is arguing the qualifications, because under the regulations the certification by the National Board for Respiratory Care is accepted by the laboratory people as qualifications. So the issue is not qualifications or how carefully they're following qualifications because we're following your guidelines. The issue or the changes seems to be the financial redundancy in

the licensure; that seems to be the only issue. I'm uncomfortable with the regulatory change based just on that. I don't think it's the fee. I think it's the dual licensing. They have to do nothing more if it's a dual licensing than pay for it, because once they are qualified under your terms it's a paid for license which then places them under the jurisdiction of laboratory regulations. What is making people uncomfortable is to save these dollars you're pulling them out of the realm of regulatory oversight, and that's an uncomfortable setting for people who understand what the impact of laboratory testing involves. What we're questioning is why and a good reason for it. Qualifications now are not an issue. That's the way we're seeing it

Dr. Carifo: When there are regulations you can't start manipulating; you're going to disturb precedent; you're going to disturb something that's in place. The question is why do you want to do that? So in order to make the changes as Linda was saying we just need the impact studies, that's all.

Linda Anderson: You can call it redundancy; some people may look at it as extra protection for the public.

Mike Garcia: We struggle with the value that license would provide to the public. What I've heard so far is that you check credentials; once again not to the extent that we do in educational background; but I haven't heard that the Bureau does anything with the people drawing and analyzing beyond that.

Evelyn Sayre: During the course of my surveys I capture certain instances when a respiratory therapy tech did not have in their file the required continuing education requirements. They had to frantically search for those, not for our surveillance; I think it's a safety cap.

Mike Garcia: We have to have ours verified, not in the file, they are verified at the time of licensure and every two years thereafter by the Board of Medical Examiners under direct examination.

Linda Anderson: The timing, you do it every two years so they could practice all that time without having that additional benefit that we go out on site.

Mike Garcia: Two hours- is that the requirement for continuing education for a blood gas technologist? (BLC - 20 hours is required for blood gas technologist in a two year cycle) and then we have twenty for Respiratory Care Practitioner.

Linda Anderson: We randomly go out and check labs, which you don't currently do; you investigate complaints; which is another way of randomly checking.

Evelyn Sayre: Competency assessment is not just paperwork review. As an inspector, I look at the respiratory therapist persons work versus what is being seen in the paperwork file; I connect that with what is being ordered and the report. They are in compliance with state regulations and how that report is presented on their chart. It's a very intensive process and my concern is still back to public safety, because I always feel that we are a partner to you in this and we take a great deal of pride in doing such intense work to help you out. Like we all said, it has nothing to do with competent qualifications at all. We know that you are very

qualified. Such a change for $75 or $50 every two years you would take away a safety net that is so essential. There were times when those competency assessments were not there. Thank goodness for this kind of partnership we're able to really hold together and even the integrity that you really want to have. If it's just an issue of $75 or $50 I feel that is just so weak to throw something that is so effective.

Mike Garcia: That's the difference between now you would report that to your Board of Medical Examiners and they would investigate it at their cost and they would bring that therapist to your board and hold them accountable for their actions under their scope of practice.

Dr. Carifo: There's still some redundancy. Complaint investigations would then be turned over that to you and then you would repeat the investigation instead of ending it right there.

Vickie: So we'd be investigating it free and you would be taking over the work.

Jennifer: Does the Board of Medical Examiners do on site complaint investigations?

Tony Clark: The answer is yes but we don't investigate laboratories because their not our licensees. We investigate complaints against licensees, whether it's a doc, a physician's assistant, or respiratory therapist.

Vickie: So then if it was a result of the laboratory test, say there was harm to a patient; we would just call you up and say go on out there and investigate this because there's a problem with their blood gas. We would look at and get testimony and statements and information concerning all of the facts and circumstances surrounding the complaint. Vickie: Then what? Tony Clark: And then if it warrants it would take disciplinary action against the licensee; whether it is a doctor, physician assistant, or therapist for this particular question; yes.

Vickie: That's the part we don't really have a good sense of how it would really occur because we don't really have any background there.

Jennifer: Are the complaints required to be in writing to initiate an investigation by the Board of Medical Examiners? Tony Clark: No. You can call in and one of the investigators will take the information down and start a file on an investigation. It helps if they are in writing, but they don't have to be. They can come in on e-mail as far as that's concerned.

Peggy Alby: Do you understand why we brought this to your attention or came to the Board, BLC with this idea that it's a dual matter and we're just calling your attention to it and seeking a resolution. We're not saying you should see it our way or we should see it your way; we're just discussing this and it gets to be adversarial and I don't want it to be. We just want to let you know that the BME is holding the RCP more accountable and very accountable for their actions. The RCP that we're licensing see it as; oh no; now I have to do this license, and then I have to do this…and people coming in to the state, from any states say no other state requires this, this is very strange. So we went to the Nevada Society for Respiratory Care and voiced this concern. It's not just the financial; it's the burden of dual licensing. It's not just money. We also went to our BME Board and said to bring it up to the Medical Board itself. You are talking about all the Respiratory Therapists in the state

being representatives; we have a Nevada Society for Respiratory Care with over 200 members that we have polled and have this concern and a lot of us; employment hiring or solicit people to come into the state to practice respiratory care have to train them that they have two licenses in this state to get. Not only do you have to get your RCP license in the State of Nevada from the Board of Medical Examiners; and BLC to get your Blood Gas Technologist license if you're going to be doing the job that requires you to draw and analyze blood gases. So that's why we brought this concern to you.

Dr. Carifo: Understand that regulatory change in itself is expensive and it can be a lengthy process. Due to the time element though, I want to thank you for coming and presenting your case, your information to us and we will carry this item to the Medical Laboratory Advisory Committee perhaps we can discuss some a little more. We understand your request, however, I have concerns regarding the impact to public safety and obtaining an impact study to truly determine the impact of changing the regulations. Because it is so late, I would like to have a motion from one of our committee members to adjourn. Dr. Marmaduke motioned to adjourn. The meeting adjourned at 11:30 a.m.